

REMARKS

The Examiner has required restriction of the above-identified application as follows:

Group I: Claims 19-23, drawn to a method of fabricating a magnetic head; and

Group II: Claims 1-18, drawn to a magnetic head and apparatus for its use.

Applicants have elected, with traverse, Group II: Claims 1-18, drawn to a magnetic head and apparatus for its use, for further prosecution.

At the outset, Applicants traverse the Restriction Requirement on the grounds that thousands of U.S. patents have issued in which many more than two classes have been searched, and the Patent and Trademark Office cannot reasonably assert that a burden exists in searching only two classes.

The Office has characterized the inventions of Groups I and II as process of making and product made. Using this characterization, the Office has opined that the product, as claimed, can be made by another and materially different process. Applicants submit that the Office is merely stating an opinion. The Office has submitted no art of record to show that the article, as claimed, can be made by another and materially different process. Rather, the Office has merely stated an opinion, and an opinion does not meet the burden required to sustain restriction. Accordingly, Applicants request withdrawal of the Restriction Requirement.

Applicants also traverse the Restriction Requirement on the grounds that a search of all the claims would not present an undue burden.

The MPEP in subsection 803 states:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Applicants respectfully submit that having to search all of the claims would not impose a serious burden on the Office.

Finally, Applicants note that MPEP §821.04 states:

If the Applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Applicants respectfully submit that should the elected group be found allowable, the non-elected process claims should be rejoined.


Applicants submit this application is now in condition for examination on the merits and early notification of such action is earnestly solicited.

Respectfully submitted,

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